



10 October 2007

Penalty Handed Down in National Gallery Case

On 2 October 2007, Justice Gyles of the Federal Court of Australia declared that the National Gallery of Australia had contravened section 16 of the *Occupational Health and Safety Act 1991* (Cth) on 14 February 2005.

During the course of relocating a five metre high temporary display wall, contractors engaged by the National Gallery attempted to straighten the wall by means of a pallet stacker (forklift) whilst it was braced on either side by two contractors. The pallet stacker was unintentionally operated so that the tines caught and lifted the wall from its base causing the wall to fall. One of the contractors was struck on the shoulder and temporarily trapped beneath the wall.

Justice Gyles found that the contractors were exposed to an unsafe system of work and a subsequent risk to their health and safety. The National Gallery failed its duty of care by allowing contractors to access its premises and carry out the task of relocating large display walls, before a risk assessment and a Hazard Identification Control Table had been completed, reviewed and approved by the National Gallery.

The National Gallery admitted the breach in the course of the proceedings following an investigation by Comcare into the incident.

Justice Gyles ordered the National Gallery to pay a penalty of \$20,000 in relation to the contravention.

Ends

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